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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF
DIECA COMMUNICATIONS DBA COVAD
COMMUNICATIONS COMPANY,
ESCHELON TELECOM OF ARIZONA, INC.,
MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC., MOUNTAIN
TELECOMMUNICATIONS, INC. XO
COMMUNICATIONS SERVICES, INC. AND
QWEST CORPORATION REQUEST FOR
COMMISSION PROCESS TO ADDRESS KEY
UNE ISSUES ARISING FROM TRIENNIAL
REVIEW REMAN ORDER, INCLUDING
APPROVAL OF QWEST WIRE CENTER
LISTS.

DOCKET NO. T-03632A-06-0091
T-03406A-06-0091
T-03267A-06-0091
T-03432A-06-0091
T-04302A-06-0091
T-01051B-06-0091

NOTICE OF FILING

Staff of the Arizona Corporation Commission ("Staff") hereby files the Responsive
Testimony of Armando F. Fimbres of the Utilities Division, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 22nd day of September 2006.

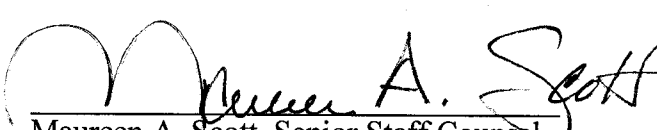
Arizona Corporation Commission

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SEP 22 2006

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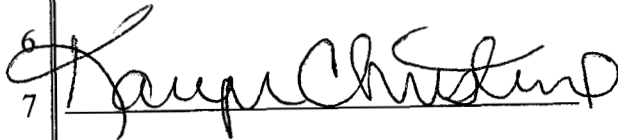
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**RESPONSIVE
TESTIMONY
OF
ARMANDO FIMBRES**

**DOCKET NOS. T-03632A-06-0091
ET AL**

**IN THE MATTER OF THE APPLICATION OF
DIECA COMMUNICATIONS DBA COVAD
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LISTS**

SEPTEMBER 22, 2006

BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman
WILLIAM A. MUNDELL
Commissioner
MARC SPITZER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner

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LISTS)	
_____)	

RESPONSIVE

TESTIMONY

OF

ARMANDO FIMBRES

PUBLIC UTILITIES ANALYST V

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

SEPTEMBER 22, 2006

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EXECUTIVE SUMMARY

Staff Recommends:

1. The use of December 2004 ARMIS 43-08 data. Qwest should be required to provide its initial Non-Impaired Wire Center list and any additional information including Fiber-Based Collocator data and UNE data based upon year-end 2004 data within 30 days of a Commission order.
2. ARMIS business line count data should be used as reported to the FCC, with no adjustments.
3. CLEC residential and non-switched lines should be included in the UNE-loop data.
4. EELs should be included in the UNE-loop data.
5. Qwest should be allowed to block UNE orders only for wire centers on an approved Commission Non-Impaired Wire Center List.
6. Qwest and the Joint CLECs submit an interim UNE blocking process to Staff for approval within 60 days of a Commission order in this proceeding.
7. Qwest and the Joint CLECs utilize the Change Management Process to develop a permanent UNE blocking process to be implemented within 12 months of a Commission order in this proceeding.
8. Qwest should waive all conversation charges for converting UNE to private line circuits or it's equivalent, similar to what Qwest when it waived its conversion charges associated with UNE-P cutovers.
9. The process for future changes to Non-Impaired Wire Centers designations should be commenced by a Qwest petition to the Commission, with to the Joint CLECs and the Staff. Parties to the Commission proceeding should have 60 days to file comments on Qwest's petition and to request a hearing. The ALJ should issue a Recommended Opinion and Order for decision by the Commission.

1 **1. INTRODUCTION**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Armando Fimbres. I am a Public Utilities Analyst V employed by the
4 Arizona Corporation Commission ("ACC" or "Commission") in the Utilities Division
5 ("Staff"). My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

6
7 **Q. Briefly describe your responsibilities as a Public Utilities Analyst.**

8 A. In my capacity as a Public Utilities Analyst, I provide information and analysis to the
9 Utilities Staff on telecommunications tariff filings, major industry issues, and matters
10 pertaining to major applications such as this docket filed on February 15, 2006.

11
12 **Q. Please describe your educational background and professional experience.**

13 A. I received a Bachelor of Science degree from the University of Arizona in 1972 and have
14 taken business and management courses at Seattle University, Northwestern University
15 and the University of Southern California. I was employed for nearly twenty-nine years in
16 Bell System or Bell System-derived companies, such as Western Electric, Pacific
17 Northwest Bell, U S WEST and Qwest. The last twenty years of my Bell System
18 telecommunications experience were in operations planning, corporate planning, or
19 strategic planning roles with a special emphasis from 1994 to 2000 on competitive and
20 strategic analysis for the Consumer Services Marketing division of U S WEST and
21 similarly from 2000 to 2001 for Qwest. I have been with the Arizona Corporation
22 Commission Utilities Division since April 2004.

23 **Q. What is the scope of your testimony in this case?**

24 A. Staff's testimony responds to the testimony filed by Qwest on June 23, 2006 and the
25 testimony of the Joint CLECs filed on July 28, 2006.

1 **2. BACKGROUND**

2 **Q. What is the purpose of your testimony?**

3 A. My testimony will present Staff's position on key issues in this matter and corresponding
4 recommendations.

5
6 **Q. What standards does the FCC's TRRO establish to determine Non-Impaired Wire**
7 **Centers?**

8 A. There are four standards:

9
10 Standard 1 defines wire centers that are non-impaired with respect to DS1 local loops.

- 11 • at least 60,000 business lines AND at least 4 fiber-based collocators.

12
13 Standard 2 defines wire centers that are non-impaired with respect to DS3 local loops.

- 14 • at least 38,000 business lines AND at least 4 fiber-based collocators.

15
16 Standard 3 defines wire centers that are non-impaired with respect to DS1 interoffice
17 transport, if the wire centers at both ends meet the standard. By this standard a wire center
18 is also known as a Tier 1 wire center.

- 19 • at least 38,000 business lines OR at least 4 fiber-based collocators.

20
21 Standard 4 defines wire centers that are non-impaired with respect to DS3 interoffice
22 transport, if the wire centers at both ends meet the standard. By this standard a wire center
23 is also known as a Tier 2 wire center.

- 24 • at least 24,000 business lines OR at least 3 fiber-based collocators.

25
26 Wire centers not meeting the Tier 1 or Tier 2 standards are by default designated Tier 3, or
27 Impaired.

28
29 **Q. Do Qwest and the Joint CLECs agree on the interpretation of these standards?**

30 A. No. One key difference is with the respect to the Fiber-Based Collocators in Arizona.
31 The Joint CLECs take issue with the methodology that has been used by Qwest. The Joint
32 CLECS raise concerns regarding Qwest internal databases as well the field verification
33 process used by Qwest to determine the number of Fiber-Based Collocators.

1 Another major difference between the parties with respect to the TRRO standards pertains
2 to the calculation of Business Line Counts. The Joint CLECs outline four specific issues
3 which they explicitly characterize as Qwest computation "errors".
4

5 "... (1) Qwest uses line count data from the wrong time period; (2) Qwest
6 manipulates its ARMIS data in a way that overstates its own line counts; (3) Qwest
7 erroneously includes CLEC residential and non-switched lines in its switched
8 business line count; and (4) Qwest inappropriately counts DS1 and DS3 loops as
9 total potential capacity rather than total capacity in use."
10

11 These are the key computation differences in the testimony of Qwest and the Joint CLECs
12 that Staff will address in this testimony.
13

14 **Q. Are there any other differences between the Parties that Staff will address in its**
15 **testimony?**

16 A. Yes. Staff's testimony also addresses differences between the parties with respect to a
17 future process that should be employed for purposes of reclassifying wire centers based on
18 updated information.
19

20 **3. DATA TIMEFRAME**

21 **Q. Were the Business Line Counts submitted by Qwest to support its list of Non-**
22 **Impaired wire centers accepted by the Joint CLECs?**

23 A. No. First, the Joint CLECs challenge the timeframe or period used by Qwest to compute
24 the Business Line Counts in the non-impairment analysis.

1 **Q. What time period did Qwest employ?**

2 A. Qwest believes that the TRRO supports the use of December 2003 ARMIS data. Qwest's
3 position is based on paragraph 105 in the TRRO that states:

4
5 "Moreover, as we define them, business line counts are an objective set of data that
6 incumbent LECs already have created for other regulatory purposes. The BOC wire
7 center data that we analyze in this Order is based on ARMIS 43-08 business lines, plus
8 business UNE-P, plus UNE-loops. We adopt this definition of business lines because it
9 fairly represents the business opportunities in a wire center, including business
10 opportunities already being captured by competing carriers through the use of UNEs.
11 Although it may provide a more complete picture to measure the number of business lines
12 served by competing carriers entirely over competitive loop facilities in particular wire
13 centers, such information is extremely difficult to obtain and verify. Conversely, by
14 basing our definition in an ARMIS filing required of incumbent LECs, and adding UNE
15 figures, which must also be reported, we can be confident in the accuracy of the
16 thresholds, and a simplified ability to obtain the necessary information."

17
18 **Q. What is the Joint CLECs position on this issue?**

19 A. The Joint CLECs believe that December 2004 ARMIS data should be utilized. Qwest's
20 use of December 2003 ARMIS data is tied to its interpretation of paragraph 105 in the
21 TRRO. The Joint CLECs take the position that 2004 ARMIS data is more closely aligned
22 with the effective date of the TRRO (March 11, 2005).

23
24 **Q. What is the position of other State Commissions regarding the timeframe of the**
25 **ARMIS 43-08 information?**

26 A. According to the information I have reviewed, the position of State Commissions varies
27 on this issue.¹ I am aware of at least four States which ordered the use of December 2003
28 data, while two have ordered the use of December 2004 data.

¹ Testimony Of Douglas Denney On Behalf The Joint CLECs, July 28, 2006, page 39, table 5.

1 **Q. What is the position of other RBOCS on this issue?**

2 A. AT&T/SBC, Verizon and Qwest support the use of December 2003 ARMIS data while
3 BellSouth supports the use of December 2004 ARMIS data.

4
5 **Q. What is Staff's recommendation regarding the timeframe or period for the data to be**
6 **used for Business Line Counts?**

7 A. Staff believes that paragraph 105 addresses the FCC's use of ARMIS 43-08 information
8 rather than the specific period - "...is based *on* ARMIS 43-08 business lines..." and
9 "...our definition in *an* ARMIS filing..."(*emphasis added*). The FCC's terminology does
10 not specifically state December 2003 ARMIS 43-08 data. Had the FCC intended to
11 specify the December 2003 ARMIS 43-08 data, it easily could have stated so. Staff
12 believes that December 2003 was simply the most current, full-year, ARMIS information
13 available to the FCC for analysis at the time the TRRO was developed. If the December
14 2004 ARMIS data had been available, Staff believes that the FCC would have used
15 December 2004 information rather than December 2003.

16
17 Additionally, Staff believes the public interest is best served by assessing the most current
18 information. By doing so, the initial list of Non-Impaired Wire Centers would reflect the
19 most current competitive situation. Staff cannot conceive of any logical reason for using
20 old data that has been superceded by more current data. Since wire centers, once
21 designated as non-impaired, cannot be returned an impaired status per the TRRO rules,
22 Staff believes use of the most current information is most reasonable for all parties – the
23 Joint CLECs, Qwest and end-user customers. For those reasons, Staff supports the use of
24 December 2004 ARMIS 43-08 data rather than December 2003.

1 **4. BUSINESS LINE COUNTS**

2 **Q. Do the Joint CLECs believe that Qwest inappropriately manipulates the ARMIS 43-**
3 **08 Business Line Count information?**

4 A. Yes. The Joint CLECs believe that - (1) Qwest manipulates its ARMIS data in a way that
5 overstates its own line counts; (2) Qwest erroneously includes CLEC residential and non-
6 switched lines in its switched business line count; and (3) Qwest inappropriately counts
7 DS1 and DS3 loops as total potential capacity rather than total capacity in use.” Issues 1
8 and 3 are related and pertain to Qwest’s decision to not use ARMIS 43-08 data exactly as
9 reported to the FCC. Issue 2 pertains to the inclusion of all UNE loops rather than just
10 those serving only business accounts.

11
12 **Q. Do other State Commissions and the RBOCs agree on the adjustment of the ARMIS**
13 **43-08 information?**

14 A. Information which State has reviewed indicates that at least seven State Commissions
15 have issued orders supporting the use of ARMIS 43-08 information exactly as reported.
16 BellSouth and Qwest support adjustment of the ARMIS 43-08 data while Verizon and
17 AT&T (SBC) support use of ARMIS 43-08 data as reported.

18
19 **Q. What is Staff’s position regarding the adjustment of ARMIS 43-08 data, as done by**
20 **Qwest?**

21 A. Staff’s review of the ARMIS 43-08 instructions and the TRRO leads it to believe that the
22 use of ARMIS 43-08 data exactly as reported is consistent with the TRRO requirements.
23 The FCC appeared to support “...a simplified ability to obtain the necessary
24 information...”² and the simplest approach is to use data exactly as reported in ARMIS
25 43-08. Nothing in the ARMIS 43-08 and the TRRO speaks directly to the adjustment of

² Direct Testimony Of David L. Teitzel, Qwest Corporation, June 23, 2006, page 5, line 9.

1 ARMIS data. Had the FCC intended to adjust the ARMIS data, explicit instructions could
2 easily have been included in the TRRO.

3
4 **Q. Does Staff agree that Qwest's inclusion of CLEC residential and non-switched lines**
5 **in Qwest's switched Business Line Counts is consistent with the TRRO?**

6 A. Yes. Language in paragraph 105 of the TRRO seems to clearly support the inclusion of
7 CLEC residential and non-switched lines in switched Business Line Counts - "The BOC
8 wire center data that we analyze in this Order is based on ARMIS 43-08 business lines,
9 plus business UNE-P, plus UNE-loops." Had the FCC intended to exclude residence UNE
10 loops, its language could easily have been as explicit as it was with the preceding words
11 "business UNE-P". The Joint CLECs counter that the business line definition³ in
12 Appendix B of the TRRO explicitly uses the term "switched" and applies to "business
13 customer(s)" - "A business line is an incumbent LEC-owned switched access line used to
14 serve a business customer...". Staff notes, however, that the applicable part of paragraph
15 105 consists of three elements - business lines, business UNE-P and UNE-Loops. The
16 business line definition to which the Joint CLECs point applies only to the first element
17 that the FCC uses to define its Business Line Counts in paragraph 105.

18
19 Staff believes that inclusion of CLEC UNE residential and non-switched lines in switched
20 Business Line Counts is appropriate.

21
22 **Q. Do Qwest and the Joint CLECs disagree on the inclusion of Enhanced Extended**
23 **Loops ("EELs")?**

24 A. Yes. The Joint CLECs generally disagree on the inclusion of UNE-loop information and
25 on the inclusion of EELs information.

³ 47 C.F.R. § 5 1.5 Terms and Definitions, Business Line.

1 **Q. What is Staff's position regarding the inclusion of EELs?**

2 A. Staff supports the inclusion of EEL data. Qwest's inclusion of EELs is consistent with the
3 general inclusion of UNE-loop information. "An EEL essentially consists of an
4 unbundled loop plus interoffice transport, and is utilized by a CLEC to provide service to
5 a customer located in a particular wire center when the CLEC is collocated in a different
6 wire center. Thus, EEL loops are appropriately included in the count of unbundled loops
7 for the wire center in which the unbundled loop terminates."⁴
8

9 **5. FIBER-BASED COLLOCATORS**

10 **Q. Does the TRRO provide guidelines pertaining to Fiber-Based Collocators?**

11 A. Yes. Paragraph 102 of the TRRO provides definition information, along with rules in
12 Appendix B⁵. The TRRO definition of Fiber-Based Collocators is outlined at page 9 of
13 Ms. Torrence's testimony. A Fiber-Based Collocator is one:

- 14
15 "a. having a collocation
16 b. the collocation is being served by an active power supply.
17 c. the collocation operating a fiber-optic cable or comparable transmission facility that:
18 (1) terminates at a collocation arrangement within the wire center;
19 (2) leaves the incumbent LEC's wire center premises; and
20 (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent
21 LEC.
22 d. in instances where two or more affiliated fiber-based collocators, or a single
23 collocator, had multiple collocations in a single wire center, they were collectively
24 counted as a single-fiber-based collocator."

⁴ Direct Testimony Of David L. Teitzel, Qwest Corporation, June 23, 2006, page 17.

⁵ 47 C.F.R. § 5 1.5 Terms and Definitions, Business Line.

1 **Q. Are there differences of interpretation Qwest and the Joint CLECs on the FCC's**
2 **TRRO Fber-Based Collocator guidelines?**

3 A. Yes. The Joint CLECs object to the information used to determine Fiber-Based
4 Collocators including the information contained in Qwest's internal databases as well as
5 the information derived by Qwest through its field verification process.
6

7 **Q. Can you summarize the five areas of objections raised by the Joint CLECs?**

8 A. Yes. The Joint CLECs have concerns⁶ about (1) Qwest communications with Fiber-Based
9 Collocators (2) communications sent by Qwest to its field personnel, (3) the validity of
10 Qwest field verification information, (4) incorrect inclusion by Qwest CLEC-to-CLEC
11 connections as part Fiber-Based Collocators, and (5) inclusion by Qwest by affiliated
12 companies as separate Fiber-Based Collocators.
13

14 **Q. Are Qwest's internal Fiber-Based Collocator databases accurate?**

15 A. Qwest internal databases are accurate to the degree that information is entered properly
16 and, thereafter, updated, maintained and protected properly. Staff recognizes that
17 information provided to Qwest by any external party can become outdated through the
18 reorganization of such parties, e.g., mergers and acquisitions, and are even subject to
19 errors or misunderstandings at many points in the submission and entry processes that
20 require feedback from the information owners to correct the information. As the Joint
21 CLECs and Qwest represent in their respective testimony, the validity of the Fiber-Based
22 Collocator information is critical for an accurate and confident determination of Non-
23 Impaired Wire Centers. Had Qwest not voluntarily undertaken its verification steps, either
24 the Joint CLECs or Staff would likely have found need for such steps.

⁶ Testimony Of Douglas Denney On Behalf The Joint CLECs, July 28, 2006, pages 10 – 15.

1 **Q. Since Qwest undertook verification steps, why do the Joint CLECs still have**
2 **objections in this area?**

3 A. In querying the Fiber-Based Collocators identified in Qwest's databases, the Joint CLECs
4 believe that the two weeks given by Qwest to Collocators to respond was an inadequate.
5 Qwest counted all non-respondents as positive confirmation of the collocator status
6 reflected in Qwest's databases. The inadequate response time casts doubt upon the
7 validity of the results of Qwest's field verification.

8
9 **Q. What is Staff's position regarding Qwest's method of requesting feedback from**
10 **CLECs?**

11 A. Staff believes two weeks is simply inadequate. Staff recommends that CLECs have 60
12 days to respond rather than two weeks alleviate any concerns in this area.

13
14 **Q. Do the Joint CLECs disagree with the field verification methodology used by Qwest**
15 **to confirm the Fiber-Based Collocators?**

16 A. Yes. The Joint CLECs are concerned about the communications⁷ sent by Qwest
17 management to Qwest field personnel and offer examples of events in Colorado and
18 Minnesota intended to support their concern regarding Qwest's field verification results in
19 Arizona.

20
21 Staff believes the Confidential communications by Qwest management to Qwest field
22 personnel does not merit the concern raised by the Joint CLECs. Staff finds the letter to
23 be clear and direct. That Qwest provides an explanation of the TRRO guidelines
24 pertaining to Non-Impaired Wire Centers to field personnel is not unreasonable.

⁷ Direct Testimony Of Rachel Torrence, Qwest Corporation, June 23, 2006, Confidential Exhibit, RT-5.

1 Similarly, the examples that the Joint CLECs offer pertaining to Colorado and Minnesota
2 are unaccompanied by information that indicates whether the examples were left
3 uncorrected or remained mishandled, if in fact these events were ever incorrect or
4 mishandled. In any regard, these examples do not support any mishandling of Fiber-
5 Based Collocation information by Qwest in Arizona.

6
7 **Q. Does Staff support the Joint CLECs contention on page 13 that Fiber-Based**
8 **Collocators were included even though power was not verified by Qwest field**
9 **personnel?**

10 A. In Staff's review, Qwest does appear to have erred in this step. However, as the Joint
11 CLECs also point-out at page 13, footnote 15, all the wire centers in question have 4 or
12 more Fiber-Based Collocators even without the inclusion of the carriers in question.
13 Therefore, Qwest's error did not affect the results.

14
15 **Q. The Joint CLECs allege that Qwest inappropriately includes CLEC to CLEC**
16 **connections and affiliated companies. What is Staff's position on this subject?**

17 A. The Joint CLECs conclude that these issues are more in the nature of alerts to the
18 Commission about alleged Qwest actions in other states. The Joint CLECs further state
19 that these concerns may be of impact to the Phoenix East wire center⁸ in Arizona, as well.
20 Staff does not see this as a major issue at this time because Staff does not believe this
21 would result in reclassification of the Phoenix East wire center. If year-end 2004 data is
22 utilized, Qwest should not include these connections in its new analysis.

⁸ Testimony Of Douglas Denney On Behalf The Joint CLECs, July 28, 2006, page 15, line 14.

1 **6. PROCESS FOR UPDATING NON-IMPAIRED WIRE CENTERS LIST**

2 **Q. Do the Joint CLECs' accept Qwest's recommendations for Updating Non-Impaired**
3 **Wire Centers?**

4 A. Qwest's recommendations are as follows:

- 5
6 “(1) Qwest will “update the list of non-impaired wire centers as often as necessary.”⁹
7 (2) Qwest will provide CLECs and the Commission notice “when wire centers are
8 reclassified.”¹⁰
9 (3) CLECs may raise factual disputes regarding Qwest's data, but CLECs should not have
10 the opportunity to “re-litigate the methodology set forth by the FCC.” In addition
11 review of Qwest's data “should not be used as a means to delay the designation of new
12 wire centers as non-impaired.”¹¹
13 (4) CLECs would have thirty days to object to the additional non-impaired wire center list
14 or else “the wire center list should be updated by operation of law unless the CLEC's
15 dispute the change in status. In addition, CLECs are prohibited from “order[ing]
16 impacted high-capacity UNEs” thirty days after the notice from Qwest¹²
17 (5) CLECs will “transition existing DS1 and DS3 UNEs to an alternative service” within
18 ninety days.¹³
19 (6) If a dispute delays the implementation of a change in the wire center list, then “Qwest
20 would back bill CLECs to the effective date if the change in wire center status is
21 approved.”¹⁴

22
23 The Joint CLECs counter with the following:¹⁵

- 24
25 (1) “CLECs should be informed when a wire center is within 5,000 lines, or within 1 fiber
26 collocator, of changing designation”
27 (2) “Qwest needs to provide to CLECs and this Commission, not only notice of changes to
28 wire center designations, but the factual evidence supporting these changes.”
29 (3) “The Joint CLECs agree that any decisions made by this Commission regarding
30 interpretation of the TRRO should not be re-litigated by either party as updates are
31 made to the wire center list.”
32 (4) “Instead of insisting on enforcing their rights under the law, the Joint CLECs would
33 agree to a process whereby this Commission reviews and approves Qwest's list.”

⁹ Albersheim Direct, page 13, lines 9-10.

¹⁰ Id at 16, lines 4-5.

¹¹ Id at 17, lines 12-14 and at 18, lines 14-15.

¹² Id at 16, lines 3-16 and at 18, lines 1-3.

¹³ Id at 16, lines 8-9.

¹⁴ Id at 18, lines 18-20.

¹⁵ Testimony Of Douglas Denney On Behalf The Joint CLECs, July 28, 2006, page 41-48.

- 1 (5) "The CLEC is put in the position of having to review Qwest's claims, initiate disputes
2 if Qwest's data is unclear, and transition facilities to an alternative service within 30
3 days. Though Qwest claims that it is offering a 90 (day) transition, this transition is
4 meaningless since the CLEC will be retroactively billed to day 31.
5 (6) "While the Joint CLECs do not disagree in theory with Qwest's proposal, any disputes
6 regarding the effective date should be settled by the Commission based on the
7 circumstances that caused a delay in implementation."

8
9 **Q. What is Staff's position on the Process for Updating the Non-Impaired Wire Centers**
10 **List?**

11 A. (1) Staff, Qwest and the Joint CLECs agree the ARMIS 43-08 is only available once a
12 year, therefore, the process for updating the Non-Impaired Wire Center List on the basis
13 of Business Line Counts can only be done once a year. At issue is how often and by what
14 means should changes in Fiber-Based Collocator information result in Updating the Non-
15 Impaired Wire Center List. At minimum, Qwest should be able to update the Fiber-Based
16 Collocator information co-incident with the availability of the ARMIS 43-08 information.
17 Qwest having to inform the CLECs when a wire center is within any range of lines seems
18 to Staff unnecessary. Based on prior ARMIS and Fiber-Based Collocator information,
19 CLECs should be able to independently forecast wire centers that have the potential to be
20 reclassified as Non-Impaired. Independent analysis by the CLECs in this area seems to
21 Staff fully consistent with full competition rather than the CLECs simply competing
22 jointly with Qwest.

23
24 Qwest envisions a process similar to the current tariff filing procedure. Acceptance of
25 Qwest's proposed process taken literally, however, could theoretically result in daily
26 updates. While simple logic suggests such should not ever be the case, Ms. Albersheim's
27 testimony at page 13, line 12 raises the need for clear guidelines that would apply, even in
28 extreme situations – "at any point in time, a new fiber-based collocation could be placed
29 in a central office, changing the status of that central office to non-impaired". Staff has no

1 objection to changes based on new Fiber-Based Collocator information, at any time, if the
2 process is orderly and allows all participants an opportunity for input. Ms. Albersheim's
3 testimony at page 17, line 19 suggests to Staff a simple opportunity for clarity – "Qwest
4 envisions a process similar to current tariff filing procedures". Staff believes that a
5 process comparable to the current tariff practice is not appropriate and will offer its
6 recommendations at a later point in this testimony.

7
8 (2) In applications to update the wire center list, Qwest should provide the Joint CLECs
9 and Staff the same factual evidence as utilized by the Parties and the Commission in this
10 proceeding to determine the initial list of Non-Impaired Wire Centers.

11
12 (3) Staff agrees with Qwest and the Joint CLECs that any decisions made by this
13 Commission regarding interpretation of the TRRO should not be re-litigated by either
14 party as updates are made to the Non-Impaired Wire Center list. Once a wire center is
15 designated as Non-Impaired the wire center remains Non-Impaired, pursuant to the
16 TRRO¹⁶.

17
18 (4) Staff understands the use of the terminology "operation of law" by Ms. Albersheim at
19 page 18, line 3 to be consistent with the current tariff practice. However, Staff
20 recommends a practice that provides the CLECs and Staff with 60 days to review the
21 application and provide comments in the docket. Hearing would then prepare a
22 Recommended Opinion and Order. Staff also recommends that a CLEC Distribution List
23 be established and agreed upon by the Parties in this docket for providing notice to the
24 CLECs.

¹⁶ 47 CFR 51.319 (e)3(i)(ii)

1 (5) Staff recommends transition from UNEs to alternative services occur within 90 days of
2 a Commission decision.

3
4 (6) The issue of back billing is made mute by Staffs position in point 5, above.
5

6 **Q. Does Staff have any concerns regarding the blocking of UNE orders by Qwest in wire**
7 **centers under review?**

8 A. No. Staff has no concerns for wire centers under review. As Ms. Albersheim states at
9 page 18 of her testimony, "Qwest will only block orders for UNEs in wire centers the
10 Commission has formally designated as being non-impaired. If non-impairment status is
11 under dispute, Qwest will not block orders for UNEs until the dispute is resolved and non-
12 impairment in the wire center becomes effective."
13

14 Staff agrees with the Joint CLECs, however, that Qwest's statement highlights the
15 importance of a Non-Impaired Wire Center update process that provides sufficient notice
16 for all parties to participate reasonably. Staff agrees as the Joint CLECs state on page 45
17 of their testimony – "The ability to block a competitor's orders is an extremely potent anti-
18 competitive weapon. By blocking CLEC orders, Qwest can bring a CLEC's business to a
19 stop."
20

21 **Q. Does Staff have any concerns regarding the blocking of UNE orders by Qwest in wire**
22 **centers that have already been reviewed?**

23 A. The concern, as expressed by the Joint CLECs on pages 50 - 54 of their testimony, is
24 much broader than Staff understands Qwest's intentions. Under no conditions does Staff
25 support the unilateral blocking of UNE orders in wire center under dispute for designation
26 as Non-Impaired Wire Centers or in wire centers that do not have such designation. If

1 Qwest supported such actions, blocking of UNE orders would be in place today. Staff
2 understands Qwest's intended actions to apply only to those wire centers that have been
3 approved by the Commission as Non-Impaired in accordance with DS1 Loop, DS3 Loop,
4 Tier 1 and Tier 2 criteria in the TRRO. As such, Staff believes that the Joint CLECs
5 concern stated on page 52 is alleviated – "Order rejection should be limited to wire centers
6 on a Commission-approved list of non-impaired wire centers."

7
8 The additional concern raised by the Joint CLECs on page 53 - "The terms and procedures
9 for rejecting orders must be predetermined and agreed to by CLECs" – is more
10 problematic and should be addressed in this proceeding. Staff believes the greatest
11 concern is that the process for blocking orders be determined with sufficient advance
12 notice, such as 90 days following the communication by Qwest to Staff and the Joint
13 CLECs of a process for blocking orders. Qwest may wish to utilize the Change
14 Management Process to develop a "UNE Blocking" process commonly understood and
15 accepted by the Joint CLECs and Qwest. Qwest should be required to file the processes as
16 a compliance item in this docket. Should Staff find reason to object, Staff can avail itself
17 of the processes available with any compliance filing.

18
19 **7. NON-RECURRING COSTS**

20 **Q. Does Staff agree that UNEs in Non-Impaired Wire Centers should be converted to**
21 **private line circuits or their equivalents?**

22 **A.** The TRRO allows Qwest to convert UNEs to private line circuits or their equivalents in
23 wire centers designated as Non-Impaired.

1 **Q. Does Staff agree with Qwest's portrayal of the conversion process and its associated**
2 **costs?**

3 A. Staff understands that the basic reason for the conversion process and associated costs
4 described by Qwest is the need to change from the CRIS billing system to the IABS
5 billing system. The Joint CLECs, however, counter that the conversion process, and
6 associated costs, is "for the convenience of Qwest, at the inconvenience of the CLECs and
7 at risk to the end user customer (of the CLECs)"¹⁷.
8

9 **Q. At page 4, lines 12 – 14, Qwest states "However, if Qwest were not allowed to charge**
10 **the CLEC for its costs to perform the conversion, the CLEC's economic assessment**
11 **of the alternatives would be distorted, possibly leading it to choose Qwest's facilities**
12 **in situations where another alternative, such as building its own facilities, is more**
13 **economically sustainable." What is Staff's opinion?**

14 A. Qwest's attempt to defend potential conversion charges by representing benefits to the
15 CLECs is puzzling. Non-recurring charges capable of distorting the CLECs' economic
16 assessment of alternatives would have to equal hundreds or even thousands of dollars,
17 presumably per circuit – difficult levels to cost justify for conversions that require no
18 physical service changes. Since Ms. Million provides no examples of recurring charges in
19 her testimony.
20

21 **Q. Does Staff believe any party other than Qwest benefits from the UNE to private line**
22 **circuit (or its equivalent) conversion?**

23 A. No. The benefits, a fall-out of Non-Impaired Wire Centers designations by the
24 Commission, seem clearly to the benefit of Qwest. If UNEs, today, are being provided at

¹⁷ Testimony Of Douglas Denney On Behalf The Joint CLECs, July 28, 2006, page 64, lines 6 - 7.

1 prices below those of private line circuits or their equivalent. Qwest immediate gains a
2 margin benefit in all Non-Impaired Wire Centers designated by the Commission.

3
4 **Q. What is Staff's reaction to the UNE to private line circuit, or its equivalent,**
5 **conversion process described by Ms. Million beginning at page 5?**

6 A. If there is no physical change in a UNE to private line circuit, or its equivalent, conversion
7 or no value-added service improvements, then the changes must be for reasons other than
8 end-user service.

9
10 Qwest believes its charges are justified by a need to move billing from CRIS to IABS.
11 The move, however, is driven by Qwest's billing needs, not the service needs of UNE
12 customers destined to be private line circuit or their equivalent customers.

13
14 Qwest also states it must change the circuit identifier ("circuit ID") to reflect the
15 conversion but, yet once again, Qwest identifies no associated change in services or
16 facilities for customers converting from UNEs to private lines or their equivalent so there
17 appears to be no value gained by the CLECs. CLECs also express a concern that the
18 change in circuit IDs has the potential to cause outages to CLEC customers.

19
20 Qwest also argues that the conversion process is initiated several manual steps are
21 involved requiring associated quality control checks, such as reviewing the accuracy of
22 Work Force Administration ("WFA") and Service Order Assignment Control ("SOAC").
23 The relevance to the Joint CLECs of these manual steps, where no physical service is
24 being made to the service offering, is not apparent to Staff. Information, once validated
25 for UNE circuits, should not bear remain valid.

1 Qwest also seeks to ensure there are no service disruptions to CLEC customers converting
2 from UNEs to private line circuits or their equivalent. With potentially thousands of
3 conversions that must each go through multiple process steps, some manual, a statistically
4 valid number of customer disruptions is bound to occur. Staff recommends that Qwest
5 provide the estimated number of customer disruptions that may occur and how Qwest
6 proposes to deal with such customer disruptions in a manner that minimizes end-user
7 customer impacts and precludes customer losses by the conversions.

8
9 **Q. What process should the Commission approve for converting UNEs in Non-Impaired**
10 **Wire Centers?**

11 A. Staff believes that accurate record-keeping does require the change of some circuit
12 identifier information. Without such change, a UNE circuit may not be easily
13 distinguishable from a private line circuit or its equivalent and may result in improper
14 billing. All other proposed charges by Qwest appear without any value or relevance to the
15 CLEC customers undergoing the conversion process.

16
17 **7. CONCLUSION**

18 **7.1 RECOMMENDATIONS**

19 **Q. Please summarize Staff's recommendations?**

20 A. Staff's recommendations are as follows:

- 21 1. The use of December 2004 ARMIS 43-08 data. Qwest should be required to provide
22 its initial Non-Impaired Wire Center list and any additional information including
23 Fiber-Based Collocator data and UNE data based upon year-end 2004 data within 30
24 days of a Commission order.
- 25 2. ARMIS business line count data should be used as reported to the FCC, with no
26 adjustments.

- 1 3. CLEC residential and non-switched lines should be included in the UNE-loop data.
- 2 4. EELs should be included in the UNE-loop data.\Qwest should be allowed to block
- 3 5. UNE orders only for wire centers on an approved Commission Non-Impaired Wire
- 4 Center List.
- 5 6. Qwest and the Joint CLECs submit an interim UNE blocking process to Staff for
- 6 approval within 60 days of a Commission order in this proceeding.
- 7 7. Qwest and the Joint CLECs utilize the Change Management Process to develop a
- 8 permanent UNE blocking process to be implemented within 12 months of a
- 9 Commission order in this proceeding.
- 10 8. Qwest should waive all conversation charges for converting UNE to private line
- 11 circuits or its equivalent, similar to what Qwest when it waived its conversion charges
- 12 associated with UNE-P cutovers.
- 13 9. The process for future changes to Non-Impaired Wire Centers designations should be
- 14 commenced by a Qwest petition to the Commission, with to the Joint CLECs and the
- 15 Staff. Parties to the Commission proceeding should have 60 days to file comments on
- 16 Qwest's petition and to request a hearing. The ALJ should issue a Recommended
- 17 Opinion and Order for decision by the Commission.
- 18

19 **Q. Has Staff had an opportunity to review the most current ARMIS data?**

20 A. No. Until the Commission decides which data to use Staff did not believe it to be
21 productive to review the information at this time for the purpose of determining the initial
22 Non-Impaired Wire Center list.

23
24 **Q. Does this conclude your Testimony?**

25 A. Yes, it does.